

REMARKS

Overview

These remarks are set forth in response to the Non-Final Office Action. Presently, claims 24-33, 35, and 49 are pending in the Patent Application. Claims 24 and 49 are independent in nature. Favorable reconsideration and allowance of the pending claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 24, 35, and 49 in order to facilitate prosecution on the merits. Claims 24 and 49 have been amended to include material from claim 34, a dependent claim of independent claim 24. Claim 35 has been amended to depend from claim 24 instead of claim 34. As such, no new matter has been added. Additionally, Applicant has cancelled claim 34 from further consideration in the Patent Application

35 U.S.C. § 103

Claims 24-35 and 49 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Publication No. 2007/0209019 to Kaval et al. (hereinafter “Kaval”) in view of United States Patent Publication No. 2002/0089546 to Kanevsky et al. (hereinafter “Kanevsky”) further in view of United States Patent Publication No. 2004/0155909 to Wagner (hereinafter “Wagner”). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the rejection.

Applicant has cancelled dependent claim 34 and has incorporated its subject matter into independent claims 24 and 49. Therefore, the obviousness rejection with respect to claim 34 will be addressed below with respect to amended claims 24 and 49.

According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must

be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

Applicant submits that the cited references, taken alone or in combination, fail to teach each and every element recited in claims 24-35 and 49 and thus they define over the cited references. For example, with respect to claim 24, the cited references fail to teach at least the following language:

a display to present a plurality of dynamically sizable active on-screen displayable cells for presenting categories of daily information therein, wherein said plurality of active cells comprise a first cell and a second cell, wherein said first cell is automatically dynamically sized based on changes in its amount of content and also based on changes in an amount of content of said second cell, and wherein said first cell is increased in size provided its content requires more size than its minimum size definition and provided further that said second cell is decreased in size below its minimum size definition

According to the Office Action, the above-recited language is disclosed by both the cited references. This assertion is respectfully traversed.

Applicant respectfully submits that claim 1 defines over the cited references because the cited references fail to disclose, teach or suggest at least "wherein said first cell is increased in size provided its content requires more size than its minimum size definition and provided further that said second cell is decreased in size below its minimum size definition." As provided for in the Specification, increasing the size of a first cell if its content requires more size than its minimum size definition and the second cell's content requires less size than its minimum size definition provides a significant technical advantage because it may allow the first cell to use the available space that the second cell does not need. As stated in the Office Action in regards to claim 34, this language is disclosed by Wagner at Figure 8H. However, Applicant respectfully submits

that they can find no reference in Figure 8H of Wagner to a minimum size definition. As described in paragraph [0090] of Wagner, Figure 8H shows a “tertiary tray... located on one side edge of the display.” Paragraph [0091] of Wagner goes on to state that the tray, as shown in Figure 8H, “is always displayed.” Applicant respectfully submits that if the tertiary tray is always displayed, that its size is never increased, nor is the size of the area not displaying the tray increased. Paragraph [0091] of Wagner suggests an alternative embodiment in which the tertiary tray is only displayed when selected. While, in this case, the visible portion of the tray would change in size, Applicant respectfully submits that they can find no mention of a limitation that this change in size would only occur “provided further that said second cell is decreased in size below its minimum size definition.” Instead, the tertiary tray is expanded whenever selected. As such, Applicant respectfully submits that they cannot find mention in the cited language of either a minimum size definition or a change in size being dependent upon a minimum size definition. Consequently, the cited references, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claim 24.

Absence from the cited references of the above-mentioned claim elements negates obviousness. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claim 24. Furthermore, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 25-33 and 35, which depend from claim 24, and therefore contain additional features that further distinguish these claims from the cited references.

Independent claim 49 recites elements similar to those recited in claim 24. Therefore, Applicant respectfully submits that claim 49 is not obvious and is patentable over the cited references for reasons analogous to those presented with respect to claim 24. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claim 49.

Conclusion

For at least the above reasons, Applicant submits that claims 24-33, 35, and 49 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 24-33, 35, and 49 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to the credit card in the previously filed credit card authorization form.

Respectfully submitted,

KACVINSKY LLC

/John F. Kacvinsky/

John F. Kacvinsky, Reg. No. 40,040

Dated: February 16, 2010

KACVINSKY LLC
4500 Brooktree Road, Suite 102
Wexford, PA 15090
(724) 933-5529